UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,511	09/24/2003	Piotr Przybylek	1387-2	1484

23869 7590 10/03/2007

HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

EXAMINER	
LUONG, ALAN H	
ART UNIT	**PAPER NUMBER**
2609	
MAIL DATE	**DELIVERY MODE**
10/03/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/669,511	PRZYBYLEK, PIOTR	
	Examiner	Art Unit	
	ALAN LUONG	2609	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 September 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *9/24/2003*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the explanation of " the list is formed as separate lists for each day, containing an unlimited number of records" in claim 6; which is not disclosed in specification.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 recites "an unlimited number of records " and claim 6 is dependent on claim 3 wherein has limitation of memory in "one data base" so the data base can not contain unlimited number of records in the memory.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Publication No.US2003/0163817 (US'817) to Han in view of US Patent No. 5,438,377 (US'377) to Chang

Regarding to claim 1: Han discloses a device for selecting a channel of radio and television sets comprising

a controlling portion (108 of Fig.1) wherein controls whole operation of all components in an apparatus considering as a CPU;

a signal receiving block (102, 103, 104 of Fig.1) linked to and controlled by the controlling portion108 (tuner102, channel decoder103 and demultiplexer104 of Fig.1 are controlled by controlling portion108) and used to receive a broadcast signals that are received from antenna ; see para.[0024] lines 4-5 and 101 of Fig.1) and if necessary converting the signal to a digital format (channel decoder portion 103 restores a digital signal from the broadcast signal above;(para[0024] lines 6-8) into demultiplexer104 of Fig.1) and ;

an A/V block (105, 106 of Fig.1) linked to and controlled by controlling portion (108 of Fig. 1) and generating the signal to be displayed on a screen (110 of Fig.1) in a required format (para.[0024], [0025] and [0026]) ;

a memory block (109 of Fig.1) linked to and controlled by the controlling portion (109 is linked to 108 in Fig.1)) and containing various types of memory (para[0066])

a viewing ratings analyzer (222-2 of Fig.2) controlled by a control module unit (222 of Fig.2) and contains various types of memory (data base 223, 223-1 to 223-4 in Fig.2; para.[0064] lines 8-20 and para[0066])

but fails to disclose a power-on block linked to and controlled by the viewing ratings analyzer for switching-on a set and setting a channel.

Chang discloses a power switch (36 of Fig. 1) is linked to microcomputer (14 of Fig.1) for switching-on a set and setting a channel (col.3 lines 40-47). Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the invention was made to modify a power switch is linked to microcontroller as taught by Chang; for switching-on a set and setting a channel in "POWER ON" mode of the TV receiver.

6. Claims 2 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Han in view of US Patent No. 5,801,747 (US'747) to Bedard.

Regarding to claim 2:Han teaches a method for selecting a channel of radio and television sets comprising

start by PWR ON step (step 401 of Fig. 4, also para.[0041]).

searching the databases for information about channels viewed last or most often on a day of the week and at a time of switching the set on (para.[0043] step402, 403 and 404 of Fig. 4 and para.[0049] step 503 of Fig.5);

selecting a channel viewed last or most often on the day of the week and at the time of switching the set on (step 405 of Fig. 4 also para.[0044]) and (step 504 of Fig. 5 also para.[0050])

setting the channel viewed last or viewed most often on the day of the week and at the time of switching the set on (step 505, 507 and 508 of Fig.5 also para.[0051] to para.[0054]). However, Han fails to teach the method of monitoring channels viewed by a user and storing data about channel viewing ratings in databases.

Bedard teaches the method of monitoring channels viewed by a user (Abstract and col. 3 line 63 to col.4 line 14) and storing data about channel viewing ratings in storage means (col.4 line 15-17 and lines 27-37). Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the invention was made to modify a monitoring channels viewed by a viewer and storing data about channel viewing ratings in storage device as taught by Bedard; in order to determine preferred channels of a viewer and monitor the viewer's activity.

Regarding to claim 7: Bedard also teaches a table containing rows representing the TV channels, columns representing time periods and date (on Fig.4, see col.7 lines 8-18)).

7. Claims 3, 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Han and Bedard as applied to claim 2 above, and further in view of US Patent No.6,499,138 (US'138) to Swix et al.

Regarding to claim 3: Han and Bedard teache the method for selecting the channel according to claim 2, but fails to teach one of the databases is a list having records comprising a number of a viewed channel, a viewing start time and a viewing stop time of the viewed channel.

Swix teaches an Electronic Programming Guide (EPG) that provides a viewer with information such as: Start time, Stop time for viewing current channel etc...(col.2 lines 14-26). Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the invention was made to add an EPG to provides a viewer with information such as: Start time, Stop time for viewing current channel as taught by Swix; in order to help viewer to monitor and select the desired program or channel to watch.

Regarding to claim 4: As the method for selecting the channel claim 3 above; Han teaches the viewing ratings statistics is created by following steps (601, 602 and 603 in Fig. 6; also see para.[0064] lines 8-20 and also see para.[0069] to [0071]) for each day of the week separately or separately for workdays and separately for weekends or separately for workdays and individually for Saturdays and for Sundays and make a ratings analysis report (see table in Fig. 7)

Regarding to claim 5: Han discloses the method for viewing channel ratings when a user views a current viewing channel for more than a critical duration (10mins) ,

a ratings report will show ranking of channel according to date and time (hr) in a circular buffer list (as Fig.7, also see para.[0037] explains a method to update ratings of channel).

8. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Han and Bedard as applied to claim 7 above, and further in view of US Publication No.2002/0104081 (US'081) to Candelore et al.

Regarding to claim 8. Han and Bedard teache the method for selecting the channel according to claim 7 above, but fails to teach copying the oldest data to free space of a row of the table before a last row of the table and deleting the last row of the table when there is insufficient space for new data.

Candelore teaches a method to prevent rollover of count values if it hits maximum value and reset in memory. This method allows new channels or programs an opportunity to replace old ones that have been in the list of favorites if viewing habits may have changed. (para.[0048] to [0051]). Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the invention was made to modify a method to prevent rollover in data base when counter value hits a maximum value and reset, as taught by Candelore in method of Han and Bedard ; in order to add new channel on the favorite channel list although the list have insufficient space.

9. Claims 9, 10, 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Han and Bedard as applied to claim 7 above, and further in view of US Patent No.7,047,548 (US'548) to Bates et al.

Regarding to claim 9, 10, 11: Han and Bedard teach the method for selecting the channel in claim 2 further, but fails to teach searching the databases for information about channels last viewed and selecting a channel last viewed at the later time as compared to the time of switching the set on when the databases contain no data on channel viewing ratings on the day of the week and at the time of switching the set on;

Bates teaches a method for searching and setting a previous channel (or last viewed channel) of interest from a current channel at the time of switching the set on when the databases contain no data on channel viewing ratings on the day of the week and select the most interest channel as the Last Channel (Abstract; also see col.5 line 22 to col. 8 line 52 and Fig 5A, 5B, 6A, 6B). Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the invention was made to modify a method for searching and selecting the last viewed channel as selecting channel as taught by Bates; in order to set the highest ratings channel automatically turn on when POWER ON mode.

10. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Han and Bedard as applied to claim 2 above, and further in view of US Patent No. 5,438,377 (US'377) to Chang.

Regarding to claim 12: The method of Han and Bedard; for selecting the channel as claim 2 above, does not teach the searching is activated by a user by switching the set on by means of a "Power-on" button.

Chang teaches the method for selecting broadcast video signal on selected channel designated by the user's activation of selected keys of key pad (13 of Fig. 1) when POWER ON mode is controlled by microcontroller (col.3 line 48 to col.4 line 41 and Fig. 2 through Fig. 4). Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the invention was made to modify a method using key pad to activate by users for channel selection as taught by Chang; in order to initialize the channel searching set ON by means of a POWER ON mode.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALAN LUONG whose telephone number is (571) 270-5091. The examiner can normally be reached on Mon.-Thurs., 8:00am-5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dennis Chow can be reached on (571) 272-7767. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Alan H. Luong
Art Unit 2609
Sept 25, 2007

DENNIS DOON CHOW
SUPERVISORY PATENT EXAMINER